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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,847	02/08/2002	Edward Archie McCulloch	597000.01111	9649

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BLANK ROME COMISKY & MCCAULEY, LLP  
900 17TH STREET, N.W., SUITE 1000  
WASHINGTON, DC 20006

EXAMINER

SCHULTERBRANDT, KOFI A

ART UNIT PAPER NUMBER

3632

DATE MAILED: 03/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/067,847

Applicant(s)

MCCULLOCH, EDWARD ARCHIE

Examiner

Kofi A. Schulterbrandt

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 20 is/are rejected.
- 7) ☒ Claim(s) 17-19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.

- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This first Office Action is in response to Applicant's Originally filed Application in this case.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Sawyer (4, 150,808). Sawyer teaches each feature of the claimed invention as shown in the attached red marked-up copy of Sawyer's Figure 5 and 6 (sheet 2 of 2).

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sawyer (4,150,808), in view of Peshkam et al. (U.S. Pub. 2001/0032430 A1). Sawyer teaches each feature of the claimed invention except a polymer composite material. Pashkam, however, teaches a glass fibre reinforced polymer (paragraph [0053], line 3).

It would have been obvious to one of ordinary skill in the art at the time of invention to have constructed Sawyer's panel of a composite polymer as taught by Peshkam as an obvious design choice since numerous composite materials may be used equally satisfactorily.

Claims 4 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al. (5,768,829), in view of Sawyer (4,150,808). Thompson teaches a plurality of panels for constructing a building having an opening comprising a frame for a window. Thompson does not teach each feature of the structure of the claimed panels. Sawyer, however, teaches the structure of the claimed panels. It would have been obvious to one of ordinary skill in the art at the time of invention to have constructed Thompson et al.'s. buildings with Sawyer's panels as any of a number of panels of different design may be used successfully to construct Thompson et al.'s. building. Regarding claim 20, the foregoing references teach each step of the claimed invention except providing schematics. It, however, would have been obvious to one of ordinary skill in the art at the time of invention to have provided schematics in order to give instruction to build a complicated assembly of structure having numerous parts.

Claims 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khan et al. (5,327,699), in view of Sawyer (4,150,808). Khan teach a plurality of panels for constructing a building having a 45 degree angle miter cut (see Figure 28). Khan et al. also teach a conduit (84) (col. 4, ln. 68). Khan et al. do not teach each feature of the structure of the claimed panel. Sawyer, however, teaches each feature of the claimed panel. It would have been obvious to one of ordinary skill in the art at the time of

invention to have constructed Khan et al's. building of Sawyer's panels as numerous panels of varying structural design would function similarly in Khan et al's. building.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sawyer (4,150,808). Sawyer teach each feature of the claimed invention except a panel having a length dimension equal to the width dimension or a length dimension twice the width dimension. It, however, would have been obvious to one of ordinary skill in the art at the time of invention to have formed Sawyer's panels of different dimensions as a number of polygonal shapes of varying proportion would function satisfactorily.

Claims 13 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sawyer (4,150,808), in view of Zuhl (5,922,236). Sawyer teaches each feature of the claimed invention as discussed above except a plurality of vertical ribs intersecting the plurality of horizontal ribs at a 90 degree angle. Zuhl, however, teaches this absent feature. It would have been obvious to one of ordinary skill in the art at the time of invention to have added additional perpendicular ribs to make the panel more structurally stabled.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sawyer (4,150,808), in view of Zuhl (5,922,236) and Draper et al. (4,168,924). Sawyer and Zuhl teach each feature of the claimed invention as discussed above except construction of the panels from a polyolefin material. Draper, however, teaches construction with a polyolefin material (col. 7, line 68). It would have been obvious to one of ordinary skill in the art at the time of invention to have constructed Sawyer's panels from a polyolefin as

taught by Draper as many suitable materials would be equally suitable for construction of Sawyer's panels.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sawyer (4,150,808), in view of Zuhl (5,922,236) and Peshkam et al. (U.S. Pub. 2001/0032430 A1). Sawyer and Zuhl teach each feature of the claimed invention as discussed above. However, Sawyer and Zuhl do not teach a panel containing a glass fiber additive. Pashkam, however, teaches a glass fibre reinforced polymer (paragraph [0053], line 3). It would have been obvious to one of ordinary skill in the art at the time of invention to have constructed Sawyer's panel of a composite polymer as taught by Peshkam as an obvious design choice since numerous composite materials may be used equally satisfactorily.

#### ***Allowable Subject Matter***

Claim 17-19 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Pertinent Prior Art***


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. '699 to Wu et al.; and '854 to Emmert. The foregoing references each teach panels for building construction.


**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kofi A. Schulterbrandt whose telephone number is (703) 306-0096. The examiner can normally be reached on Monday - Friday, 8:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A. Braun can be reached on (703) 308-2156. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

  
Kofi Schulterbrandt  
March 4, 2003

  
LESLIE A. BRAUN  
SUPERVISORY PATENT EXAMINER

